United States Department of the Interior

BUREAU OF RECLAMATION
Mid-Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825-1898

IN REPLY
REFER TO:
CVO-400
WTR-1.10

MAY 16 2003

Mr. Edward Anton
Chief, Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, California 95812-2000

Subject: Petition for Temporary Urgency Change in Permit Term, New Melones Dam and Reservoir, Central Valley Project (CVP) (Applications 14858A, 14858B and 19304)

Dear Mr. Anton:

Pursuant to Water Code Section 1435, the Bureau of Reclamation requests a temporary urgency change to the above-referenced water rights of the Central Valley Project for the New Melones Dam and Reservoir. The nature of this temporary urgency change is an adjustment of permit terms concerning the flow objectives for the San Joaquin River at Vernalis pursuant to the Bay-Delta Water Quality Control Plan (WQCP). The low storage and runoff conditions in the Stanislaus River watershed make it imprudent to operate New Melones Reservoir to meet all anticipated WQCP conditions this year and still ensure a sufficient supply in the future to continue complying with our permit conditions in case subsequent hydrological conditions remain dry.

As you are aware, the water conditions in the Central Valley of California this year had been classified as "critical." (The San Joaquin Valley 60-20-20 Index (SJI Year Type) at the 75 percent exceedance level as of April 1, 2003 was forecasted to be 2.0.) Due to recent precipitation, the classification has improved to "below normal" conditions. Even with this recent change, we are still facing adverse hydrologic conditions and the situation still remains whereby the process for allocating water from the Stanislaus River system cannot fulfill all demands.

2003 Vernalis Flow Objective Compliance

In late January 2003, the SJI Year Type was forecasted to be dry with an index of 2.2 at the 75 percent exceedance level. Under the New Melones Interim Plan of Operation (NMIPO), there was no water allocated to meet the Vernalis flow objective of 2,280 cubic feet per second (cfs) in February. Meeting the February Vernalis flow objective would have required approximately 20,000 additional acre-feet of water to be released from New Melones.

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While Reclamation is not legally bound to comply with NMIPO allocations, the NMIPO provides an effective tool for balancing allocations to the many competing demands on the Stanislaus River. The NMIPO allocations provide some assurance that the competing demands generally receive at least some water in the current and future years in case of prolonged drought similar to that experienced during the 1987 through 1992 period. Based on an initial assessment in February of then current hydrologic conditions, NMIPO allocations, and current/forecasted Delta fishery needs, Reclamation committed approximately 600 cfs of New Melones water to satisfy the February salinity standards at Vernalis, however that was not sufficient to meet the February flow objective. This commitment also allowed for compliance with the flow standard if the SJI Year Type had been declared "critical" at that point.

At the same time, Reclamation began discussing 2003 Vernalis flow objective compliance with the other agencies in the Water Operations Management Team (WOMT), which includes the California Department of Water Resources (DWR), Department of Fish and Game (DFG), the Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS, which is now called NOAA Fisheries). This issue also has been discussed in the CALFED Operations Group public meetings and at the Delta Smelt Work Group meetings. Based on the results of adult delta smelt surveys, the fishery agencies determined, that in February, most of the delta smelt were not in the southern Delta and were located west and north of the confluence of the San Joaquin and Sacramento Rivers.

Based on that distribution and abundance of adult delta smelt and concern regarding New Melones' low reservoir storage, the WOMT agencies agreed that full compliance with the February Vernalis flow objective to protect ESA-listed species could be deferred. Compliance would be assessed again in March, based on the results of new delta smelt surveys and updated hydrological conditions. Moreover, the meeting WQCP Vernalis flow objectives would be charged against environmental water supplies authorized by Congress in the Central Valley Project Improvement Act § 3406(b)(2), while compliance with the salinity standard would not be charged to such supplies. Because this water was not released and hence not counted against the 800,000 acre-feet, the FWS may exercise its discretion to take other actions totaling 20,000 acre-feet at other times and at other CVP facilities, which they would not otherwise have been able to take. Continued discussions with the fisheries agencies led to the determination that if there was an insufficient allocation of (b)(2) water in New Melones to fully meet the Vernalis flow objectives, then the prudent choice would be to conserve that limited supply to meet flow objectives at other times, or to use (b)(2) water from other sources if that were determined to have a higher benefit for intended species.

The WOMT agencies, therefore, began addressing the less-than-complete compliance with the February Vernalis flow objective. D-1641 requires that Reclamation report to the SWRCB when the Vernalis WQCP objectives are not achieved. Reclamation submitted to the WOMT a draft of

what became the March 18 letter to the SWRCB. The consensus position developed in WOMT was that Reclamation be relieved from complying with the Vernalis flow objective in February 2003. The March 18 letter to the SWRCB formalized that request.

In March, the SJI Year Type was forecasted to be "critical" with an index of 2.0 at the 75 percent exceedance level. The flow objectives at Vernalis therefore were 1,140 cfs during March and the first two weeks of April (i.e. before the pulse flow period starting on April 15). The releases made from New Melones during March to meet the Vernalis salinity standard were sufficient to achieve the Vernalis flow objective as well.

As of April 7, the SJI Year Type remained "critical" with an index of 2.0 at the 75 percent exceedance level. New Melones allocations were therefore sufficient to fulfill the flow objectives during the first two weeks of April. Since that time, precipitation has improved hydrologic conditions, leading to a current SJI Year Type of "below normal." During the current April 15-May 15 pulse flow period, we are implementing the Vernalis Adaptive Management Plan (VAMP) pursuant to the San Joaquin River Agreement (SJRA). After VAMP ends on or about May 15, it is anticipated that the Vernalis flow objectives will return to 2,280 cfs. The current allocations under the NMIPO again may not support all demands for New Melones water, including water quality and fishery conditions placed upon New Melones permits. Under these circumstances, prudent operational considerations suggest that meeting the Vernalis flow objective not be done. Of course, the circumstances may change by June, leading to some adjustments in the assessment of how best to operate New Melones.

For your information, we have enclosed the following supporting information:

1. Table of the forecasts for the San Joaquin Valley Index from January to the present, including the May forecast.

2. Chart of the flow in the San Joaquin River at Vernalis showing the releases at Goodwin Dam on the Stanislaus River and the WQCP 7-day and monthly flow levels.

3. Table of the water supply forecasts and allocations under the NMIPO from January to the present.

4. Maps reflecting the distribution and abundance of delta smelt during the February-April period.

Scope of Temporary Urgency Change

Based on the information included in and with this letter, Reclamation requests that the SWRCB approve a temporary urgency change to the New Melones water right permits by replacing the flow objectives for a dry or below normal year for February, May 16-31, and June with critical-

year flow objectives. This change would apply this year only for a period less than 180 days, as required by Water Code Section 1435. This is the only change we are requesting. Reclamation and other Interior agencies remain committed to complying with all other water quality standards this year, including the Vernalis salinity standard.

Reclamation will undertake the following actions as part of the operations of New Melones in 2003:

a. Estimate fish water availability in the NMIPO, using the May 2003 90% exceedance forecast, including water for fishery actions pursuant to CVPIA § 3406(b)(2).

b. Implement the SJRA from April 15 to May 15, 2003.

c. Monitor the distribution and abundance of delta smelt in the Delta, juvenile salmon in the Stanislaus and San Joaquin Rivers, and New Melones storage levels in order to determine the comparative value of compliance with below normal-year Vernalis flow objectives in late May and June to support delta smelt and salmon needs, using (b)(2) water.

Justification

The urgent need for this temporary change is the result of adverse water supply conditions at New Melones that are forecasted to continue through this year. The situation we have had this year of a wet December followed by critically dry conditions in January through March suggests that the adjustment of Vernalis flow objectives in February, May and June will result in better management of New Melones water for fishery needs. These temporary permit condition changes benefit the environment and promote reasonable use of California's waters in several ways.

Changes Benefit Delta Fishery Without Any Unreasonable Effect. The February-June flow objectives at Vernalis were established to benefit the Delta fishery; particularly the spawning, rearing and migration of delta smelt. Not achieving the February Vernalis flow objective this year did not have a significant adverse effect on delta smelt, as at that time they were located primarily in the north Delta and Suisun Marsh. Reclamation and other agencies will be continuing real-time monitoring of hydrologic conditions, and the distribution and abundance of delta smelt and salmon; this information will be evaluated to assess the need for Vernalis flows relative to whether these species will benefit by allocating CVPIA (b)(2) water in other ways. Even though we are requesting that critical year flow objectives be imposed instead of below normal year flow objectives, recent discussions have led to a recommendation by WOMT to increase flows above the critical year flow objectives for the latter half of May to benefit delta smelt. There would be a concurrent benefit to salmon. Thus, the fisheries agencies have requested that Reclamation operate New Melones to meet the below normal year flow objectives after the VAMP releases have concluded. The requested duration of these flows will be evaluated on an on-going basis based on results of delta smelt surveys. We may only be able to

meet the below normal year standards for a limited period of time, depending on the availability of CVPIA (b)(2) water. For more information on the fishery aspects of the February deliberations, please contact Diana Jacobs (DFG) at 916-653-6897, or Dave Harlow (FWS) at 916-414-6600. We have been discussing the terms of this temporary urgency change to the New Melones water right permits, and anticipate concurrence from the FWS, DFG and NOAA Fisheries.

Changes Will Not Injure Other Legal Users of Water. The Vernalis flow objectives were not intended to protect or benefit other consumptive uses of water, such as agricultural or municipal uses. The reduced flows in February and possibly May/June therefore will not likely affect other legal users of water. Some users may benefit from additional flows at some other time, if the fishery agencies decide to use this water for instream needs. While the NMIPO is only supporting a small allocation to contractors in 2003, the releases for the Vernalis flow objectives are not affecting the contractor allocation this year.

Changes Reflect Reasonable Use of New Melones' Limited Water Supplies. By limiting water use for meeting flow objectives, which were not absolutely necessary for delta smelt in February this year, and having the flexibility in late May and June if necessary to shift water use for fish to other more critical fishery needs, Reclamation can achieve a more reasonable use of New Melones water supplies. As Reclamation testified during the 1998-99 Bay-Delta Water Rights Hearings, New Melones does not have enough water to support all demands under all conditions. These changes therefore allow a reasonable balancing of New Melones demands and support the public interest.

Changes Support Cooperation Among Federal/State Agencies. The process that led to this year's result was a model for interagency cooperation and coordination, particularly between the water project agencies and the fishery agencies. These changes support the consensus recommendations and therefore the cooperative process that created such consensus. Authorizing these changes is consistent with federal and state goals of responding reasonably to fishery needs as they change in "real time."

California Environmental Quality Act (CEQA) Compliance
Because of the nature of the requested changes and the information presented herein, California law provides a categorical exemption from further environmental analysis under CEQA. Cal. Code Reg. §§15307, 15308. Granting this temporary urgency change would protect the environment in general, as well as conserve fishery and water resources in general. In below normal years like this one, maximizing the benefits of each water use is critical to achieving California's reasonable use standard. Cal. Const. Art. X, § 2. Shifting the water use from February to later in the year when there may be a need or to another fishery purpose elsewhere in the Central Valley system ensures that California's limited water resources will be committed to higher priority fishery needs.

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If you have any further questions regarding this temporary urgency change, please contact me, Chester V. Bowling at 916-979-2199 or John Renning at 916-978-5295.

Sincerely,

Kirk C. Rodgers
Regional Director

Attachments

cc:

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SAN JOAQUIN VALLEY WATER YEAR TYPE INDEX (60-20-20)

Forecast Date	Probability of Exceedence 99%	90%	75%	50%	25%	10%
Dec 1, 2002	1.2	1.7	2.0	2.7	3.5	4.5
Jan 1, 2003	1.8	2.3	2.6	3.3	4.0	4.9
Feb 1, 2003	1.6	2.0	2.2	2.7	3.2	4.0
Mar 1, 2003	1.5	1.8	2.0	2.4	2.7	3.4
Apr 1, 2003	1.7	1.9	2.0	2.2	2.4	2.7
Apr 15, 2003	2.2	2.4	2.5	2.6	2.8	3.1
May 1, 2003	2.5	2.6	2.7	2.8	2.9	3.1

Water Year Index based on flow in million acre feet

Index = 0.6 * Current Apr-Jul Runoff (1)
+ 0.2 * Current Oct-Mar Runoff (1)
+ 0.2 * Previous Year's Index (2)

Notes:

(1) Runoff is the sum of unimpaired flow in million acre-feet at:
Stanislaus River below Goodwin Reservoir (aka inflow to New Melones Res.)
Tuolumne River below La Grange (aka inflow to New Don Pedro Reservoir)
Merced River below Merced Falls (aka inflow to Lake McClure)
San Joaquin River inflow to Millerton Lake

(2) Maximum 4.5 for previous year index term

Previous Water Year Indices:
2002 = 2.3 MAF 70% of average
1977 (Min) = 0.8 MAF 25% of average
1983 (Max) = 7.2 MAF 217% of average
1951-2000 average = 3.3 MAF

Year Type Classification: Index based on flow in million acre-feet:

Wet	Equal to or greater than 3.8
Above Normal	Greater than 3.1, and less than 3.8
Below Normal	Greater than 2.5, and equal to or less than 3.1
Dry	Greater than 2.1, and equal to or less than 2.5
Critical	Equal to or less than 2.1

This index, originally specified in the 1995 SWRCB Water Quality Control Plan, is used to determine the San Joaquin Valley water year type as implemented in SWRCB D-1641. Year types are set by first of month forecasts beginning in February. Final determination for San Joaquin River flow objectives is based on the May 1 75% exceedence forecast.

Summary of Stanislaus River Operations Forecasts for Water Year 2003
All values are in thousand acre-feet

Operational Criteria	Forecast Date 1-Jan-03	1-Feb-03	1-Mar-03	1-Apr-03	15-Apr-03	1-May-03
Projected Water Year Inflow to New Melones	523	607	533	596	758	857
Oakdale/South San Joaquin ID	548	600	555	597	600	600
Fisheries						
- Fishery Allocation	112	115	112	115	122	133
- DFG Agreement	98.3	98.3	98.3	98.3	98.3	98.3
Water Quality*	75	76	75	76	79	83
Vernalis Flow Objectives	0	0	0	0	0	0
Dissolved Oxygen	60	60	60	60	60	60
Central Valley Project Contractors	0	0	0	0	0	2
New Melones Projected End of September Carryover Storage	951	1009	938	951	1112	1226

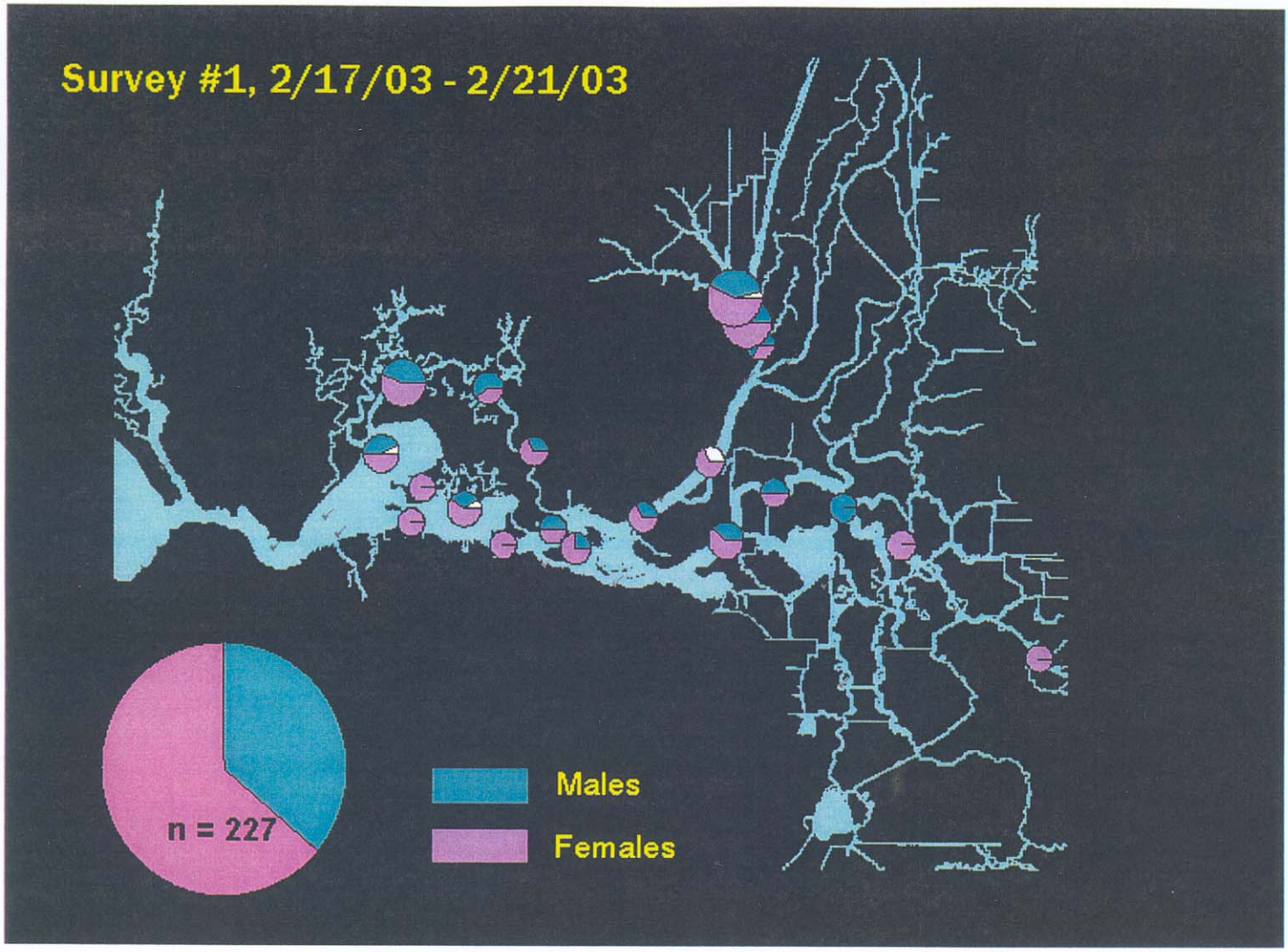
* Reclamation has committed to fully meeting the Vernalis Water Quality standard this year, even if the need exceeds the allocation.

Goodwin Release History and Resulting Vernalis Flow

	Goodwin Release cfs	Vernalis Flow cfs	Vernalis 7-day avg cfs	Vernalis 30-day avg cfs
2/1/2003	503	1809		
2/2/2003	501	1822		
2/3/2003	505	1842		
2/4/2003	501	1840		
2/5/2003	536	1849		
2/6/2003	598	1858		
2/7/2003	599	1871	1842	
2/8/2003	600	1888	1853	
2/9/2003	601	1887	1862	
2/10/2003	606	1888	1869	
2/11/2003	615	1888	1876	
2/12/2003	605	1897	1882	
2/13/2003	603	1955	1896	
2/14/2003	602	1939	1906	
2/15/2003	602	1923	1911	
2/16/2003	604	1948	1920	
2/17/2003	601	1972	1932	
2/18/2003	605	1925	1937	
2/19/2003	606	1919	1940	
2/20/2003	581	1941	1938	
2/21/2003	551	1965	1942	
2/22/2003	556	1964	1948	
2/23/2003	554	1941	1947	
2/24/2003	553	1953	1944	
2/25/2003	550	2001	1955	
2/26/2003	525	2030	1971	
2/27/2003	506	2045	1986	
2/28/2003	500	2029	1995	
3/1/2003	502	2019	2003	
3/2/2003	500	2048	2018	1929
3/3/2003	506	2119	2042	1939
3/4/2003	503	2130	2060	1949
3/5/2003	503	2053	2063	1956
3/6/2003	514	2067	2066	1964
3/7/2003	503	2134	2081	1973
3/8/2003	502	2212	2109	1985
3/9/2003	500	2244	2137	1997
3/10/2003	502	2256	2157	2010
3/11/2003	503	2198	2166	2020
3/12/2003	505	2199	2187	2030
3/13/2003	500	2276	2217	2043
3/14/2003	503	2272	2237	2056
3/15/2003	503	2481	2275	2073
3/16/2003	501	2614	2328	2096
3/17/2003	482	2536	2368	2116
3/18/2003	453	2497	2411	2135
3/19/2003	452	2407	2440	2149

3/20/2003	452	2311	2445	2162
3/21/2003	454	2222	2438	2172
3/22/2003	453	2160	2392	2179
3/23/2003	451	2193	2332	2187
3/24/2003	453	2175	2281	2194
3/25/2003	450	2090	2223	2199
3/26/2003	452	2051	2172	2202
3/27/2003	452	1998	2127	2202
3/28/2003	450	1976	2092	2200
3/29/2003	453	1970	2065	2198
3/30/2003	508	1961	2032	2196
3/31/2003	599	1987	2005	2195
4/1/2003	606	1939	1983	2191
4/2/2003	604	2004	1976	2187
4/3/2003	650	2047	1983	2184
4/4/2003	709	2020	1990	2183
4/5/2003	709	2071	2004	2183
4/6/2003	700	2015	2012	2179
4/7/2003	757	2050	2021	2174
4/8/2003	801	1970	2025	2165
4/9/2003	801	1919	2013	2154
4/10/2003	802	1850	1985	2142
4/11/2003	808	1874	1964	2131
4/12/2003	805	1950	1947	2120
4/13/2003	732	2216	1976	2118
4/14/2003	647	2532	2044	2120
4/15/2003	649	2734	2154	2124
4/16/2003	649	2875	2290	2135
4/17/2003	649	3005	2455	2152
4/18/2003	649	3177	2641	2178
4/19/2003	649	3204	2820	2208
4/20/2003	652	3371	2985	2246
4/21/2003	652	3499	3124	2291
4/22/2003	652	3416	3221	2332
4/23/2003	781	3307	3283	2369
4/24/2003	1221	3040	3288	2401
4/25/2003	1512	3070	3272	2435
4/26/2003	1501	3200	3272	2475
4/27/2003	1503	3244	3254	2517
4/28/2003	1506	3328	3229	2563
4/29/2003	1503	3418	3230	2611
4/30/2003	1502	3319	3231	2655
5/1/2003	3277	1502	3012	2641
5/2/2003	3263	1506	2788	2624
5/3/2003	3331	1268	2512	2598
5/4/2003	3498	950	2184	2563
5/5/2003	3458	598	1794	2514
5/6/2003	3318	600	1392	2466
5/7/2003	3213	604	1004	2418
5/8/2003	3251	600	875	2373
5/9/2003	3295	607	747	2329
5/10/2003	3285	603	652	2287

5/11/2003	3392	603	602	2245
5/12/2003	3392	603	603	2200
5/13/2003	3227	691	616	2149
5/14/2003	2875	741	635	2089
5/15/2003	2653	733	654	2023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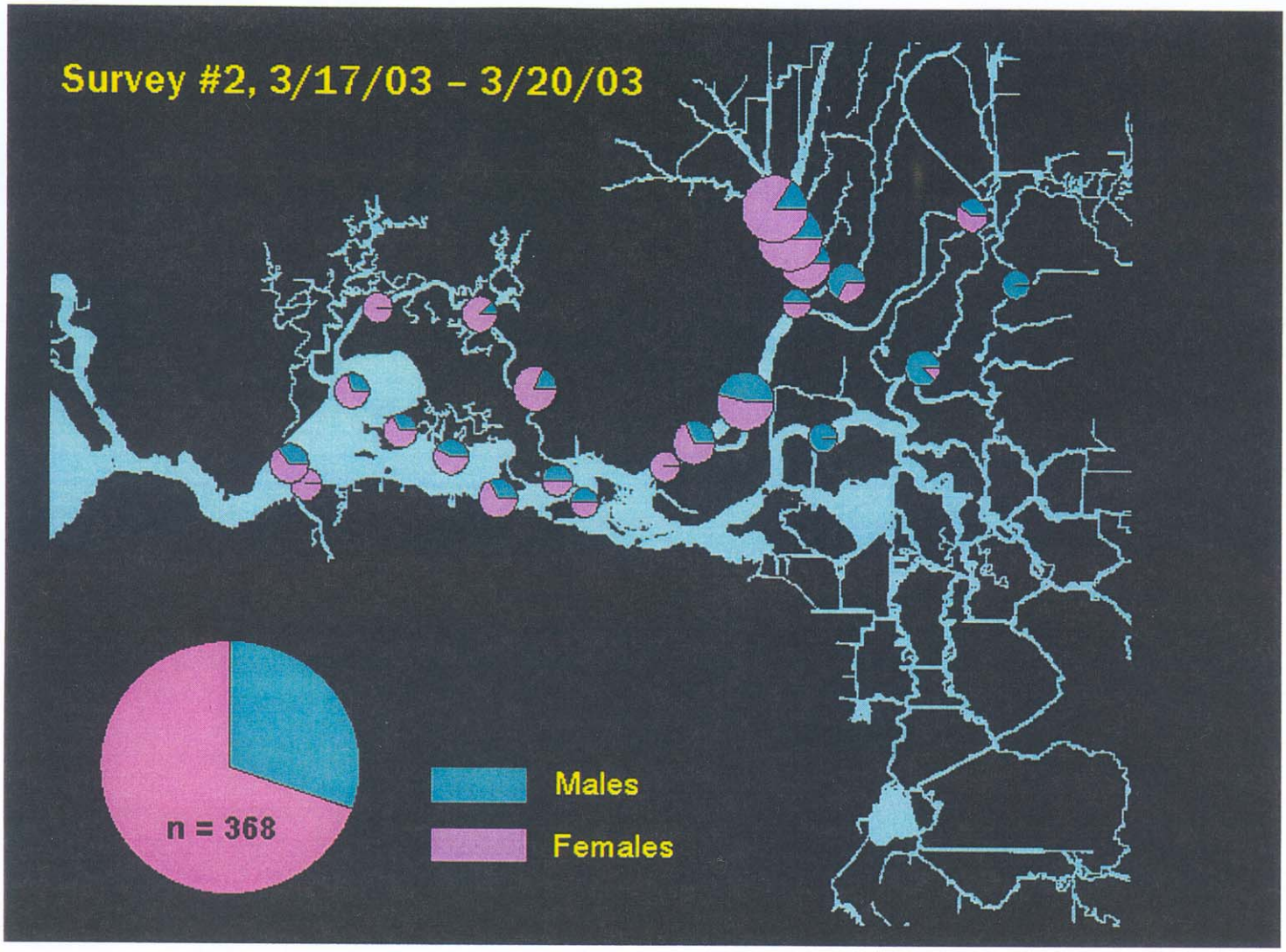
Males
Females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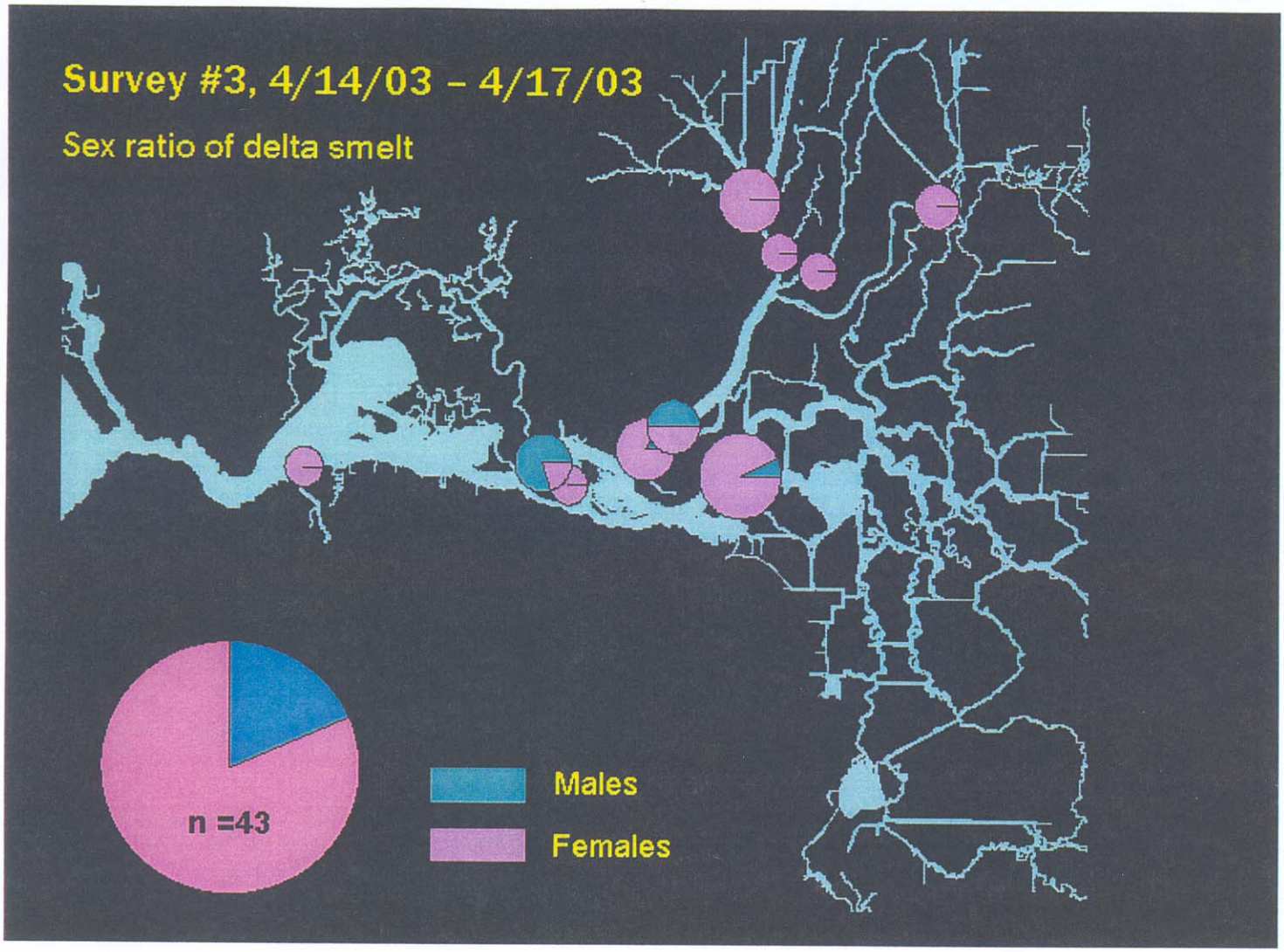
Females

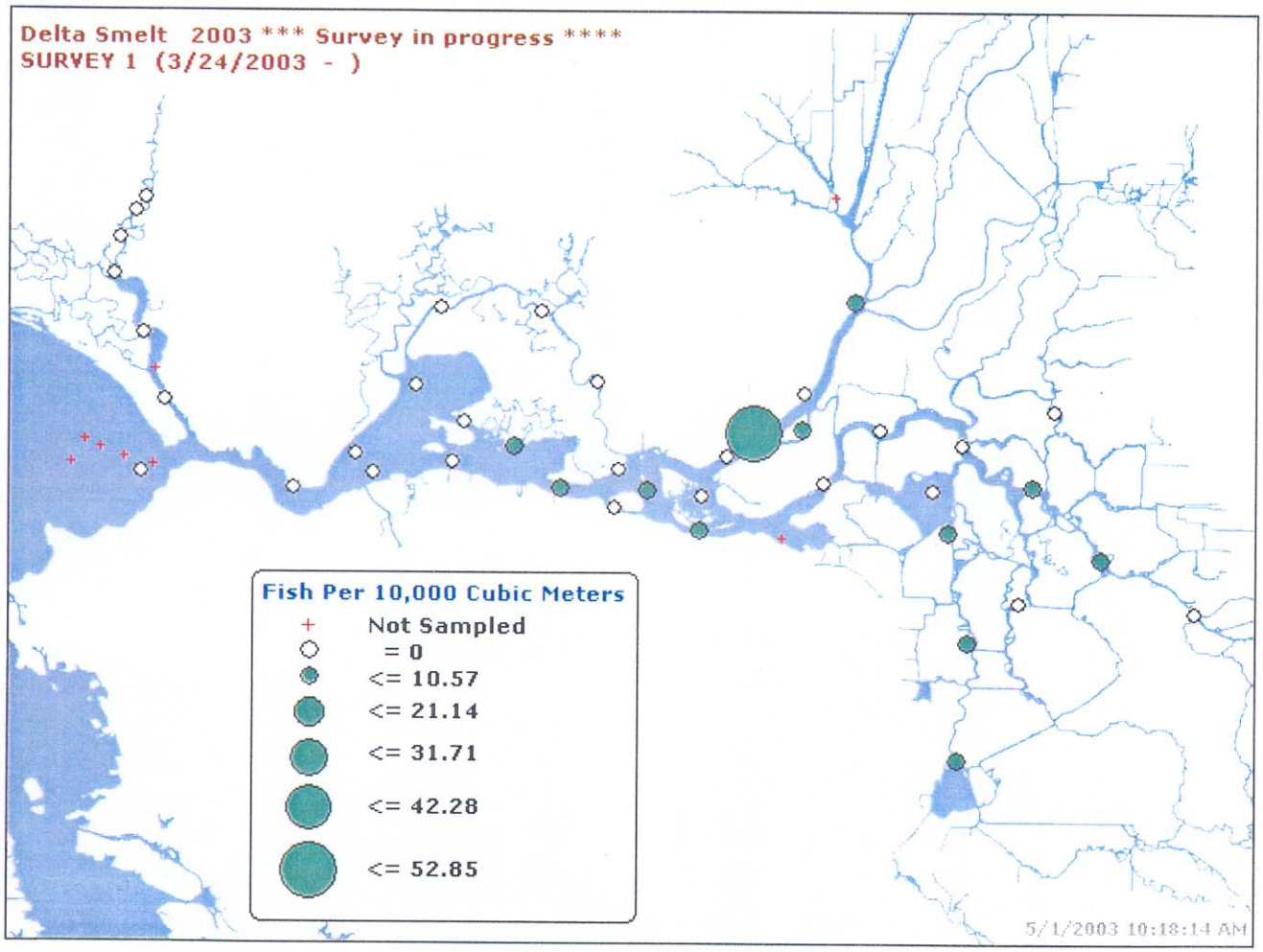


20mm] [DFG Bay-Delta] [IEP Home Page] [Dept. of Water Resources] [Resources Agency-Ceres] [Spring Kodiak Trawl Home Page

20mm Survey

SELECT SPECIES	YEAR	SURVEY	View Station ID: ☐	Optional Max Value : Values less than actual maximum will be ignored.
Delta Smelt	2003	1	View Percentages: ☐	Draw Map

Data Table Below Map



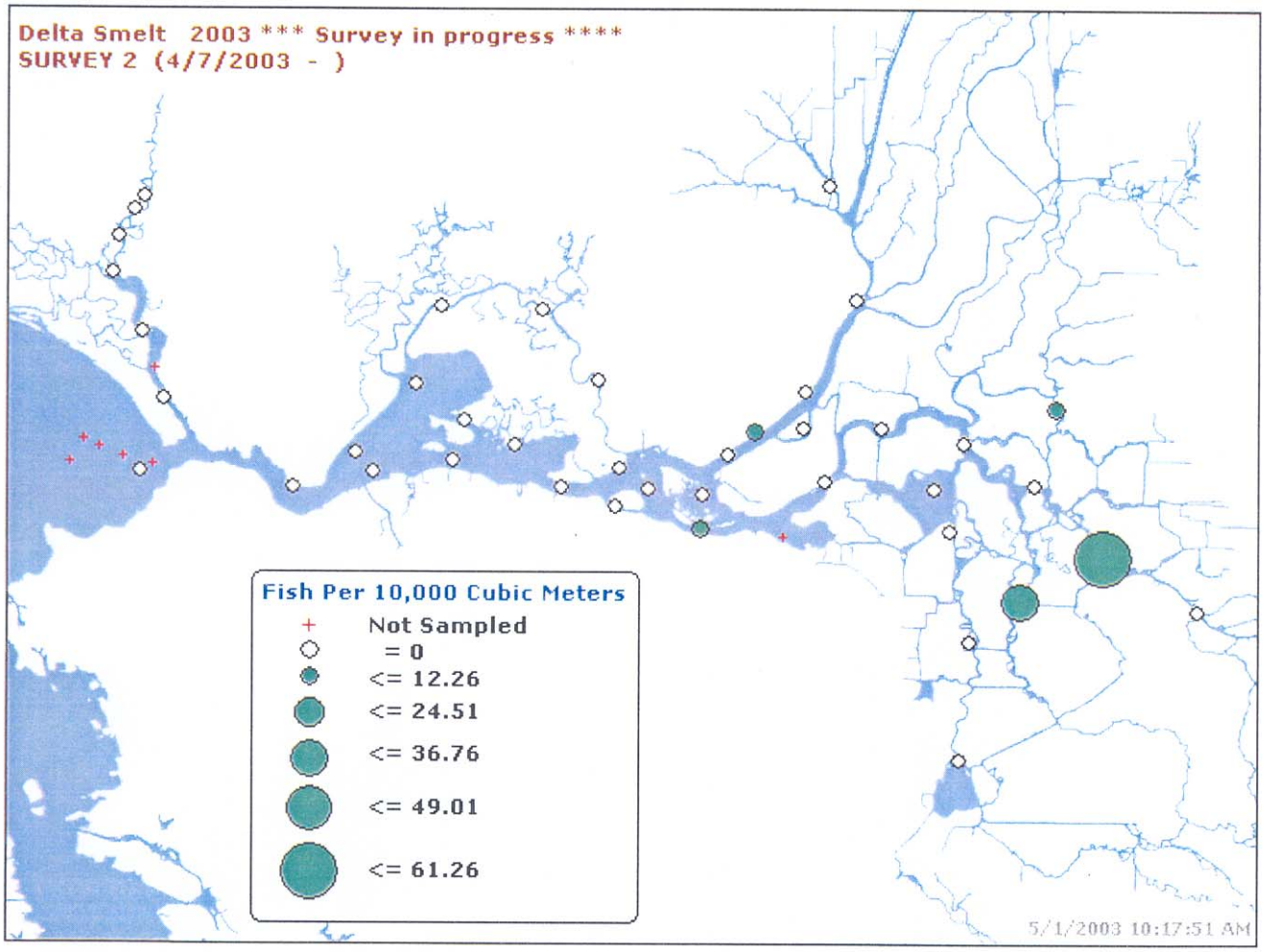
Delta Smelt 2003 Survey: 1

STATION	SURFACE TEMP	SURFACE EC	NUMBER OF TOWS	AVERAGE CPUE
323	14.0	24000	2	0
340	14.7	17000	3	0
342	15.2	14000	3	0

20mm Survey

SELECT SPECIES	YEAR	SURVEY	View Station ID: ☐	Optional Max Value : Values less than actual maximum will be ignored.
Delta Smelt	2003	2	View Percentages: ☐	Draw Map

Data Table Below Map



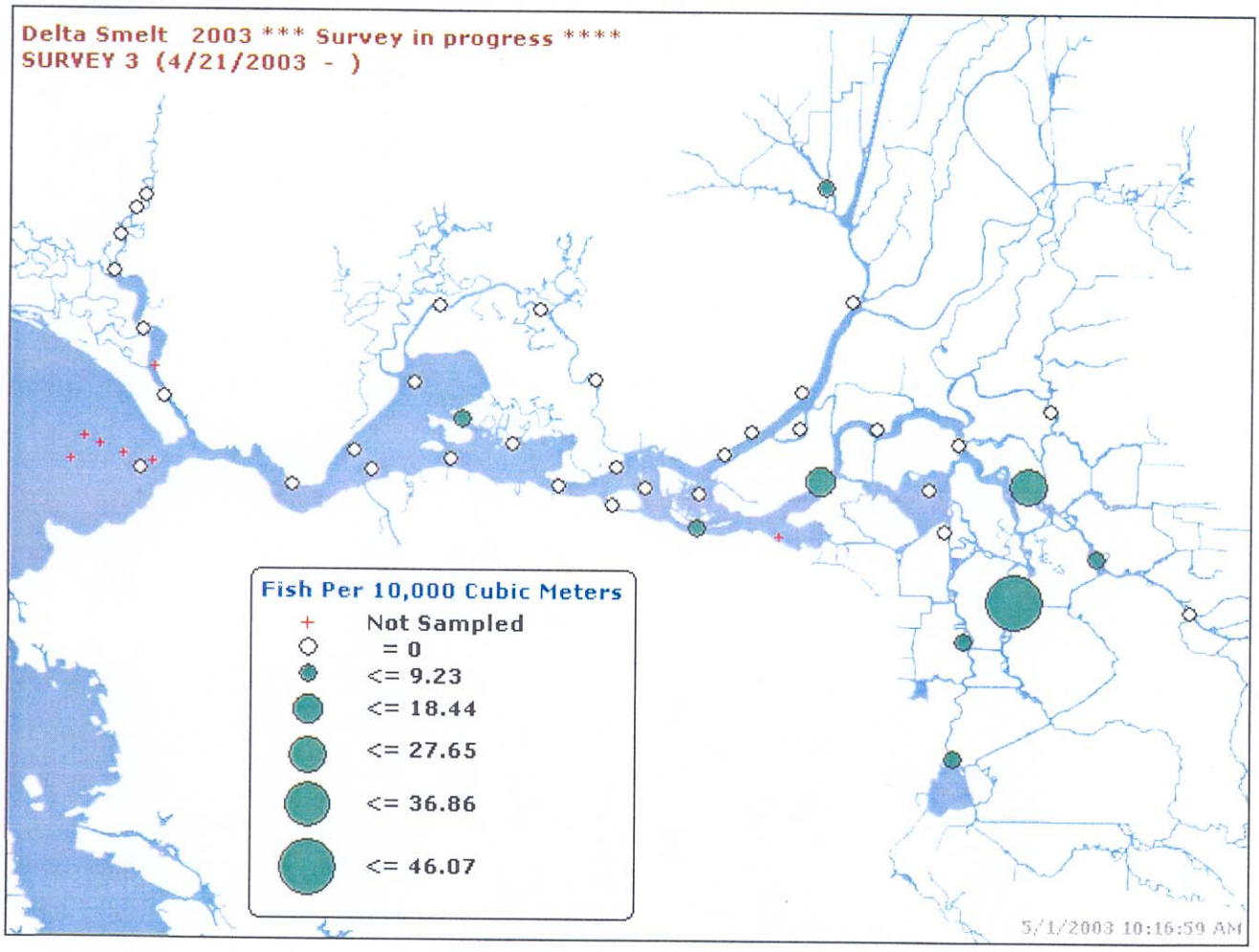
Delta Smelt 2003 Survey: 2

STATION	SURFACE TEMP	SURFACE EC	NUMBER OF TOWS	AVERAGE CPUE
323	13.4	26000	3	0
340	14.2	19940	3	0
342	15.1	18950	3	0

20mm Survey

SELECT SPECIES	YEAR	SURVEY	View Station ID: ☐	Optional Max Value : Values less than actual maximum will be ignored.
Delta Smelt	2003	3	View Percentages: ☐	Draw Map

Data Table Below Map



Delta Smelt 2003 Survey: 3

STATION	SURFACE TEMP	SURFACE EC	NUMBER OF TOWS	AVERAGE CPUE
323	13.4	26250	1	0
340	14.5	17890	1	0
342	14.5	14880	1	0

20mm Survey

SELECT SPECIES	YEAR	SURVEY	View Station ID: ☐	Optional Max Value : Values less than actual maximum will be ignored.
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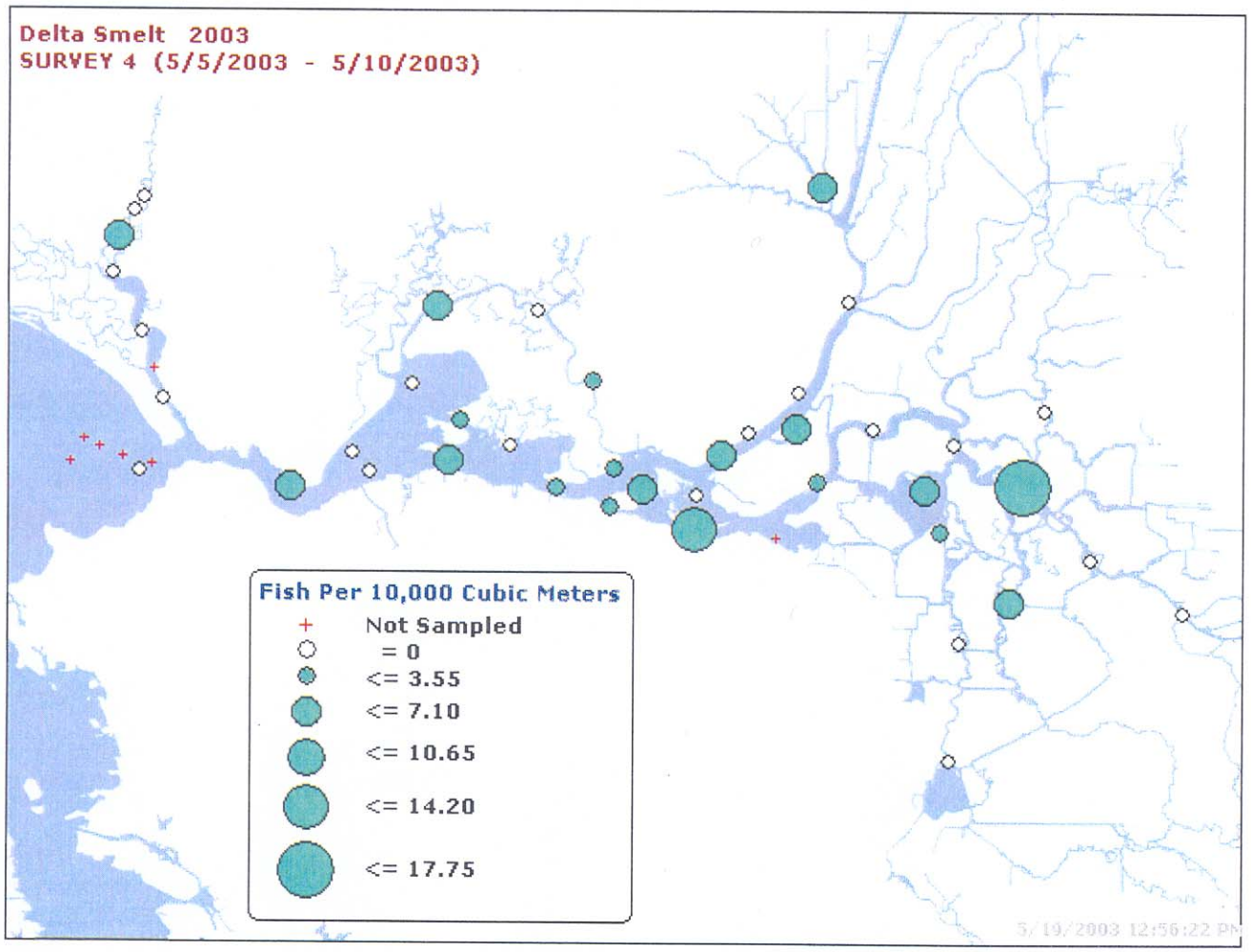
Data Table Below Map



Delta Smelt 2003 Survey: 4

STATION	SURFACE TEMP	SURFACE EC	NUMBER OF TOWS	AVERAGE CPUE
323	15.9	11600	3	0
340	15.8	2080	3	0
342	16.4	4527	3	0
343	16.3	3992	3	0
344	16.0	465	3	3.68